

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JEFFREY W. TAM,

Plaintiff,

v.

JOHN E. POTTER,

Defendant.

No. 07-2747 SI

**DEFENDANT'S OBJECTIONS AND
RESPONSES TO PLAINTIFF'S FIRST
SET OF SPECIAL
INTERROGATORIES**

PROPOUNDING PARTY: PLAINTIFF JEFFREY W. TAM

RESPONDING PARTY: DEFENDANT

SET NO.: ONE

Pursuant to Federal Rule of Civil Procedure 33, defendant John E. Potter hereby provides the following objections and responses to plaintiff's first set of interrogatories (the "Request").

PRELIMINARY STATEMENT

1. Defendant has not completed its investigation of the facts relating to this case, has not completed its discovery in this action, and has not completed its preparation for trial. The following responses are based on reasonable inquiry and information known at this time, and are given without prejudice to defendant introducing at trial or at any hearing, subsequently discovered evidence and facts as additional evidence and facts are obtained, analyses are made

1 and legal research is completed.

2 2. Each of the objections and responses to this Request is based on defendant's
3 understanding of each interrogatory therein. To the extent that plaintiff asserts an interpretation
4 of any interrogatory that is inconsistent with defendant's understanding, defendant reserves the
5 right to supplement or amend its objections and responses.

6 3. Defendant's responses are made without in any way intending to waive or waiving, but on
7 the contrary, intended to preserve and preserving:

8 (a) The right to raise all questions of authenticity, foundation, relevancy, materiality,
9 privilege and admissibility as evidence for any purpose of any information identified in response
10 to the Request that may arise in any subsequent proceeding in, or the trial of, this or any other
11 action.

12 (b) The right to object to the use of these responses in any subsequent proceeding in, or
13 the trial of, this or any other action on any grounds;

14 (c) The right to object to the introduction into evidence of these responses; and

15 (d) The right to object on any ground at any time to the other discovery involving the
16 subject matter thereof.

17 4. By making these responses, defendant does not concede that the information sought is
18 relevant.

19 GENERAL OBJECTIONS

20 Defendant asserts the following objections to each interrogatory contained in plaintiff's first
21 set of interrogatories.

22 A. Defendant objects to each interrogatory to the extent it seeks information that is not
23 relevant to the claim or defense of any party, or that otherwise exceed the bounds of discovery set
24 forth in Federal Rule of Civil Procedure 26.

25 B. Defendant objects to each interrogatory to the extent it is vague, ambiguous, compound,
26 and/or unintelligible.

27 C. Defendant objects to each interrogatory to the extent it contains non-discrete subparts in
28 violation of Federal Rule of Civil Procedure 33.

1 D. Defendant objects to each interrogatory to the extent it is repetitive, overly broad, unduly
2 burdensome, harassing, and/or made for any improper purpose.

3 E. Defendant objects to each interrogatory to the extent it seeks information that is
4 confidential and/or private.

5 F. Defendant objects to each interrogatory to the extent it seeks information that is protected
6 from disclosure by any applicable statute, regulation or law, or the Constitution.

7 G. Defendant objects to each interrogatory to the extent it seeks information not in
8 defendant's possession, custody, or control.

9 H. Defendant objects to each interrogatory to the extent it seeks information in plaintiff's
10 possession, custody, or control, information already provided to plaintiff, and/or information
11 equally available to plaintiff from third parties.

12 I. Defendant objects to each interrogatory to the extent it seeks information protected by any
13 applicable privilege, including the attorney-client privilege and the work product doctrine.

14 J. Defendant objects to each interrogatory to the extent it lacks foundation/assumes facts not
15 in evidence.

16 K. Defendant objects to each interrogatory to the extent it calls for a legal conclusion.

17 L. By making these responses or agreeing to provide any information, defendant does not
18 concede the information is discoverable or the interrogatory is proper.

19 M. Defendant reserves the right to amend or supplement his responses.

20 N. Defendant incorporates all of the above objections into each response below. By raising
21 any similar or different objections below, defendant does not waive any of his general objections.

22 **RESPONSES TO INTERROGATORIES**

23 **INTERROGATORY NO. 1:**

24 a. identify the applicants' qualifications, who have been promoted as supervisors.

25 b. identify the applicants, who had passed and had not passed the promotion board.

26 **RESPONSE TO INTERROGATORY NO. 1:**

27 Defendant incorporates all general objections. Additionally, defendant further objects
28 that this interrogatory seeks information that is irrelevant to the claims and defenses in this

1 action, and is therefore beyond the scope of discovery as established by Rule 26. Defendant
2 objects to this request as compound and contains non-discrete subparts in violation of Rule 33.
3 Defendant also objects to this interrogatory as vague and ambiguous, especially as to the phrases
4 "the applicants' . . . who have been promoted as supervisors," and "the applicants, who had
5 passed and had not passed the promotion board." Defendant objects to this request as vague as to
6 time. Defendant further objects to the request as overboard as to time and subject matter and
7 unduly burdensome. Defendant objects to the request on the ground that it assumes facts not in
8 evidence and lacks foundation. Defendant objects to this request on the ground that it seeks
9 information not within defendant's possession, custody or control. Defendant objects to the
10 extent this request calls for confidential information protected by the Privacy Act. Defendant
11 objects to the extent this request calls for information protected by the attorney client privilege
12 and/or work product protection.

13 Subject to and without waiving the foregoing objections and based on defendant's
14 understanding of this request, defendant responds as follows:

15 Defendant understands plaintiff's request to refer to applications received for promotions
16 to supervisor of transportation positions posted on November 10, 1999; January 31, 2000; March
17 6, 2001; January 15, 2002; and September 10, 2003. Pursuant to defendant's retention period for
18 promotion packages, defendant no longer possesses application materials related to the
19 November 1999; January 2000; March 2001; or January 2002 postings for promotions to
20 supervisor of transportation. Defendant has produced information related to the September 10,
21 2003 posting for promotion to supervisor of transportation, and refers plaintiff to documents
22 bates stamped USPS0605 to USPS0683.

23 INTERROGATORY NO. 2:

- 24 a. state the procedures of the bulk mail assistant returning to the driving position.
25 b. explain why the management would allow Mr. Norman Davis, Mr. Danny Clark and Ms.
26 Debbie Nail returned to Full-time driving position, but not allowing the plaintiff.
27 c. explain why the management stopped the plaintiff to go back to drive after he had the driver
28 training in year 2002.

d. explain why the management requested the plaintiff to submit the job reassignment through the eReassign at usps.com to obtain the driving position; which procedure did not apply to the plaintiff.

e. explain why the management required the plaintiff to take the job examination, which only applied to the new applicants.

RESPONSE INTERROGATORY NO. 2:

Defendant incorporates all general objections. Additionally, defendant further objects that this interrogatory seeks information that is irrelevant to the claims and defenses in this action, and is therefore beyond the scope of discovery as established by Rule 26. Defendant objects to this request as compound and contains non-discrete subparts in violation of Rule 33. Defendant also objects to this interrogatory as vague and ambiguous, especially as to the phrases "the procedures," "the management," "allow," "Full-time driving position," "stopped the plaintiff . . . to go back to drive," "driving training," "the driving position," and "job examination." Defendant objects to this request as vague as to time. Defendant further objects to the request as overboard as to time and subject matter and unduly burdensome. Defendant objects to the request on the ground that it assumes facts not in evidence and lacks foundation. Defendant objects to this request on the ground that it seeks information not within defendant's possession, custody or control. Defendant objects to the extent this request calls for confidential information protected by the Privacy Act. Defendant objects to the extent this request calls for information protected by the attorney client privilege and/or work product protection.

Subject to and without waiving the foregoing objections and based on defendant's understanding of this request, defendant responds as follows:

a and d. Pursuant to the Employee Labor and Relations Manual ("ELM") and Handbook EL-312, a Postal Service employee must apply for reassignment through the Postal Service's eResassign website. When the request is approved, the employee becomes a part-time flexible ("PTF") Motor Vehicle Operator. Article 39.2.A.11 of the Collective Bargaining Agreement and the Memorandum of Understanding contained in the Collective Bargaining Agreement apply to promotions from Motor Vehicle Operator to Tractor Trailer Operator. Vacant Tractor Trailer

1 Operator positions are filled by senior Motor Vehicle Operators bidding for the vacancy.
2 b and c, To allow plaintiff to return to a full-time driving position, there would have had to be a
3 vacant driving position. Also, the regulations contained in the ELM, Handbook on EL-312, and
4 the Collective Bargaining Agreement and Memorandum of Understanding contained in the
5 Collective Bargaining Agreement would have to be followed. Defendant's discovery is
6 continuing, and defendant will supplement its responses as necessary.

7 e. Regulations and provisions referenced above require all applicants for any position that has
8 an examination requirement to take and successfully pass the examination for that position.
9 Defendant's discovery is continuing, and defendant will supplement its responses as necessary.

10 INTERROGATORY NO. 3:

11 a. explain why the management set up the plaintiff's work schedules that did not comply to the
12 Collective Bargaining Agreement and U.S. Postal Services.

13 b. explain why the management set up the year 2003 work schedule that hurt the plaintiff
14 physically and mentally.

15 c. Explain why the management set up the year 2005 harsh work schedule even the plaintiff had
16 filed the EEO Complaint for the year 2003 work schedule.

17 RESPONSE TO INTERROGATORY NO. 3:

18 Defendant incorporates all general objections. Additionally, defendant further objects
19 that this interrogatory seeks information that is irrelevant to the claims and defenses in this
20 action, and is therefore beyond the scope of discovery as established by Rule 26. Defendant
21 objects to this request as unintelligible. Defendant objects to this request as compound and
22 contains non-discrete subparts in violation of Rule 33. Defendant also objects to this
23 interrogatory as vague and ambiguous, especially as to the phrases "the management,"
24 "plaintiff's work schedules," "did not comply to," "set up," "hurt the plaintiff physically and
25 mentally," and "harsh work schedule." Defendant further objects to the request as overboard as
26 to time and subject matter and unduly burdensome. Defendant objects to the request on the
27 ground that it assumes facts not in evidence and lacks foundation. Defendant objects to the
28 request to the extent it calls for a legal conclusion. Defendant objects to this request on the

ground that it seeks information not within defendant's possession, custody or control. Defendant objects to the extent this request calls for information protected by the attorney client privilege and/or work product protection.

Subject to and without waiving the foregoing objections and based on defendant's understanding of this request, defendant responds as follows:

a. Defendant complied with all provisions of the Collective Bargaining Agreement when it established plaintiff's work schedules. Defendant did not violate any provisions of the Collective Bargaining Agreement in establishing plaintiff's work schedules.

b. Defendant did not "set up" the 2003 work schedule to "hurt the plaintiff physically and mentally." Defendant established the 2003 work schedule to meet operational needs and in compliance with the provisions of the Collective Bargaining Agreement.

c. Defendant did not "set up" a "harsh work schedule" for plaintiff in 2005. Defendant established the 2005 work schedule to meet operational needs and in compliance with the provisions of the Collective Bargaining Agreement.

INTERROGATORY NO. 4:

Explain why the management looked for the plaintiff when I was in the bathroom; but other workers were not asked to work even though they were an hour late.

RESPONSE TO INTERROGATORY NO. 4:

Defendant incorporates all general objections. Additionally, defendant further objects that this interrogatory seeks information that is irrelevant to the claims and defenses in this action, and is therefore beyond the scope of discovery as established by Rule 26. Defendant objects to this request as unintelligible. Defendant also objects to this interrogatory as vague and ambiguous, especially as to the phrases "the management," "looked for plaintiff when I was in the bathroom," "other workers" and "not asked to work event though they were an hour late." Defendant further objects to the request as overboard as to time and subject matter and unduly burdensome. Defendant objects to the request on the ground that it assumes facts not in evidence and lacks foundation. Defendant objects to this request on the ground that it seeks information not within defendant's possession, custody or control. Defendant objects to the extent this

1 request calls for information protected by the attorney client privilege and/or work product
2 protection.

3 Subject to and without waiving the foregoing objections and based on defendant's
4 understanding of this request, defendant responds as follows: Defendant does not understand this
5 request and cannot respond. Plaintiff has not provided sufficient information, e.g., management
6 personnel referenced, "other workers" referenced, date and time of alleged incident(s), for
7 defendant to understand or respond to this request.

8 INTERROGATORY NO. 5:

- 9 a. explain why the management deleted the overtime record.
10 b. explain why the supervisor called the plaintiff to work four hours overtime, but the
11 management harassed the supervisor if allowing the plaintiff to continue [sic] working overtime;
12 the supervisor would receive the warning letter.

13 RESPONSE TO INTERROGATORY NO. 5:

14 Defendant incorporates all general objections. Additionally, defendant further objects
15 that this interrogatory seeks information that is irrelevant to the claims and defenses in this
16 action, and is therefore beyond the scope of discovery as established by Rule 26. Defendant
17 objects to this request as unintelligible. Defendant objects to this request as compound and
18 contains non-discrete subparts in violation of Rule 33. Defendant also objects to this
19 interrogatory as vague and ambiguous, especially as to the phrases "the management," "the
20 overtime record," "the supervisor," "to work four hours overtime," "the management harassed
21 the supervisor if allowing the plaintiff to [continue] working overtime," and "the warning letter."
22 Defendant objects to this request as vague as to time. Defendant further objects to the request as
23 overboard as to time and subject matter and unduly burdensome. Defendant objects to the
24 request on the ground that it assumes facts not in evidence and lacks foundation. Defendant
25 objects to this request on the ground that it calls for speculation and seeks information not within
26 defendant's possession, custody or control.

27 Subject to and without waiving the foregoing objections and based on defendant's
28 understanding of this request, defendant responds as follows: Defendant does not understand this

1 request and cannot respond. Plaintiff has not provided sufficient information, e.g., the "record"
2 referenced, date and time referenced, and name of supervisor and management personnel
3 referenced, for defendant to understand or respond to this request.

4 DATED: January 14, 2008

Respectfully submitted,
JOSEPH P. RUSSONIELLO
United States Attorney

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JENNIFER S. WANG
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

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PLAINTIFF'S FIRST SET OF SPECIAL INTERROGATORIES**

Jeffrey W. Tam v. John E. Potter
Case No. CV 07-2747 JCS

to be served this date upon the party in this action by placing a true copy thereof in a sealed envelope, and served as follows:

☒ **FIRST CLASS MAIL** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **CERTIFIED MAIL (#)** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ **ELECTRONIC MAIL**

☐ **FEDERAL EXPRESS**


☐ **FACSIMILE (FAX)** Telephone No.: See Below

to the party(ies) addressed as follows:

Jeffrey W Tam
408 Yorkshire Road
Alameda, CA 94501
(510) 522-5534
PRO SE

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 14, 2008 at San Francisco, California.



BONNY WONG
Legal Assistant